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ABSTRACT

With the increasing concern over alcohol and other drug use among young people, adults must educate themselves about legal issues. This booklet is a resource for parents and educators to help them learn tobacco, alcohol, and other drug laws in California. The material is organized by type of drug with the legal codes as they apply to that drug appearing below. The drugs covered include tobacco, alcohol, marijuana, peyote, inhalants (such as nitrous oxide), anabolic steroids, and narcotics and dangerous drugs. The legal codes address issues of sale and purchase, possession, false identification, liability, driving, provision, and minors. Also covered are laws on drug paraphernalia, parental responsibilities, school expulsion, confidentiality, counseling, medical care, presence where drugs are being used, disorderly conduct, and possession of drugs without a prescription. A glossary defines some technical terms. Knowledge of the serious consequences of drug use will enable adults to communicate these consequences to their children and students. (RJM)

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Laws About Tobacco, Alcohol, and Other Drugs

A Guidebook for California's Parents and Educators

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LAWS ABOUT
TOBACCO, ALCOHOL, AND OTHER DRUGS

A Guidebook for California's Parents and Educators

Introduction

Alcohol and other drugs have gained great notoriety in the past few years. As a nation, we are struggling to find effective ways to prevent the use of drugs by our youth. *Being informed* is one of the many ways adults can assist in this worthwhile effort.

One method of preventing drug use by youth is to enforce strict laws and punishments. **Laws About Tobacco, Alcohol, and Other Drugs** is a resource for parents and educators to help them become more familiar with California law. Knowledge of the serious consequences of drug use will enable adults to communicate these consequences to their children and students.

Many laws have been written concerning tobacco, alcohol, and other drugs in this state. In addition to these state laws, each city and county may have their own laws which apply to drug-related violations. The appropriate abbreviations for each California Code as noted throughout this document are as follows:

H.&S.C.	Health and Safety Code
V.C.	California Vehicle Code
P.C.	Penal Code
B.&P.C.	Business and Professions Code
E.C.	Education Code
F.C.	Family Code
U.S.C.	United States Code
W.& I.C.	Welfare and Institutions Code

The citations for codes which have been edited appear in brackets. Copies of these codes may be found at local city hall offices, county libraries, county courthouses, college libraries, most attorneys' offices, and schools of law. For additional information or further interpretation of a law, contact any of these offices: city or county prosecutor, the Public Defender's office, the State Attorney General, Legal Aid, local attorneys, or the California State Liquor Control Board.

TOBACCO

No school shall permit the smoking or use of tobacco, or any product containing tobacco or nicotine products, by pupils of the school while the pupils are on campus, or while attending school sponsored activities or while under the supervision and control of school district employees. E.C. 48901(a)

The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking. E.C. 48901(b)

Every person, firm or corporation which knowingly sells, gives or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, is guilty of a misdemeanor. [P.C. 308]

For any person by any means, as part of an advertising plan or program, to distribute free samples of smokeless tobacco products within a two block radius of any premises or facilities whose primary purpose is directed toward persons under the age of 18 years including, but not limited to, schools, clubhouses, and youth centers, when those premises are being used for their primary purposes. B.&P.C. 17537.3(c)

ALCOHOL

Sale And Purchase

Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.
B.&P.C. 25658(b)

Any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor.
B.&P.C. 25658(b)

Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor. B.&P.C. 25658(c)

Any person who violates this section shall be punished by a fine of not less than two hundred fifty dollars ($250), no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of fine and community service as determined by the court. B.&P.C. 25658(d)

Any person under the age of 21 years who attempts to purchase any alcoholic beverage from a licensee, or the licensee's agent or employee, is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100). A second or subsequent violation of this section shall be punished by a fine of not more than two hundred fifty dollars ($250), or the person shall be required to perform up to 36 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service as the court deems just. B.&P.C. 25658.5

Every person, firm, or corporation which sells or gives or in any way furnishes to another person, who is in fact under the age of 21 years, any candy, cake, cookie, or chewing gum which contains alcohol in excess of 1/2 of 1 percent by weight, is guilty of a misdemeanor. P.C. 307

Possession

Any person under the age of 21 years who has any alcoholic beverage in his possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his parent or in pursuance of his employment. B.&P.C. 25662(a)

Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view which is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are

participating, persons under the age of 21 years are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants. Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests the release of the seized alcoholic beverage within that period, those beverages may be destroyed. B &P.C. 25662(b)

Driving

(a) Notwithstanding Sections 23152 and 23153, it is unlawful for a person under the age of 21 years who has a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, to drive a vehicle. However, this section shall not be a bar to prosecution under Section 23152 or 23153 or any other provision of law.

(b) A person shall be found to be in violation of subdivision (a) if the person was, at the time of driving, under the age of 21 years, and the trier of fact finds that the person had consumed an alcoholic beverage and was driving a vehicle with a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test.

(c) (1) Any person under the age of 21 years who drives a motor vehicle is deemed to have given his or her consent to a preliminary alcohol screening test for the purpose of determining the presence of alcohol in the person, if lawfully detained for an alleged violation of subdivision (a).

(2) The testing shall be incidental to a lawful detention and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of subdivision (a)

(3) The person shall be told that his or her failure to submit to, or the failure to complete, a preliminary alcohol screening test as

requested will result in the suspension of the person's privilege to operate a motor vehicle for a period of one year. V.C. 23136

Any person convicted of an alcohol or illegal drug offense, committed while the person was under the age of 21 years, but 13 years of age or older, the court shall suspend the person's driving privilege for one year. If the person convicted does not yet have the privilege to drive, the court shall order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further conviction for any offense specified in subdivision (d) in a 12-month period after the conviction, the court, upon petition of the person affected, may modify the order imposing the delay of the privilege. For each successive offense, the court shall suspend the person's driving privilege for those possessing a license or delay the eligibility for those not in possession of a license at the time of their conviction for one additional year. As used in this section, the term 'conviction' includes the findings in juvenile proceedings specified in Section 13105. [V.C. 13202.5(a)]

Whenever the courts suspend driving privileges pursuant to subdivision (a), the court in which the conviction is rendered shall require all driver's licenses held by the person to be surrendered to the court. The court shall within 10 days following the conviction transmit certified abstract of the conviction, together with any driver's licenses surrendered, to the department. Violation of restrictions imposed pursuant to this section are subject to Section 14603. V.C. 13202.5(b)

After a court has issued an order suspending or delaying driving privileges pursuant to subdivision (a), the court, upon petition of the person affected, may review the order and may impose restrictions on the person's privilege to drive based upon a showing of a critical need to drive. The restriction shall remain in effect for the balance of the period of suspension or restriction in this section. The court shall notify the department of any modification within 10 days of the order of modification. [V.C. 13202.5(c)]

Suspension, restriction, or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of any violation specified in subdivision (d). V.C. 132025(e)

It is unlawful for any person, while driving a vehicle with a license suspended or revoked, pursuant to section 14601.2, to do any act forbidden

by law or neglect any duty imposed by law in the driving of the vehicle, which act or neglect proximately [caused] bodily injury to any person other then the driver. In proving the person neglected any duty imposed by law in the driving of the vehicle, it is not necessary to prove that any specific section of this code was violated. [V.C. 4601.4(a)]

Any person convicted under this section shall be imprisoned in a county jail and shall not be released upon work release, community service, or any other release program before the minimum period of imprisonment, prescribed in section 16401.2, is served. If a person is convicted of such an offense and is granted probation, the court shall require tat the person convicted serve at least the minimum time of imprisonment, as a term or condition of probation. [V.C. 16401.4(b)]

It is unlawful for any person, while under the influence of any alcoholic beverage or drug, or under the combined influence of an alcoholic beverage and any drug, to drive a vehicle and, concurrently, do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver. V.C. 231153

It is unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and, concurrently, do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver. V.C. 23153(b)

No person shall drink any alcoholic beverage while driving a motor vehicle upon any highway. V.C. 23220

Every person who possesses, while driving a motor vehicle upon a highway, not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, as defined by section 11006.5 of the Health and Safety Code, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). [V.C. 23222(b)]

It is unlawful for the registered owner of any motor vehicle, or the driver if the registered owner is not then present in the vehicle, to keep in a motor vehicle, when the vehicle is upon any highway, any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the content of which have been partially removed, unless the container is kept in the trunk of the vehicle, or kept in some

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Laws About Tobacco, Alcohol, and Other Drugs

A Guidebook for California's Parents and Educators

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other area of the vehicle not normally occupied by the driver or passengers, if the vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers. [V.C. 23225]

No person under the age of 21 years shall knowingly drive any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a parent, responsible adult relative, any other adult designated by the parents, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 [commencing with Section 23000] of the Business and Professions Code), and is driving the motor vehicle during regular hours and in the course of the person's employment. If the driver was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

No passenger in any motor vehicle who is under the age of 21 years shall knowingly possess or have under that person's control any alcoholic beverage, unless the passenger is accompanied by a parent, legal guardian, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or in employed by a licensee under the Alcoholic Beverage Control Act (Division 9 [commencing with Section 23000] of the Business and Professions Code), and * * * possession or control is during regular hours and in the course of the passenger's employment. If the passenger was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative or adult designee relating to disposition of the alcoholic beverage.

If the vehicle used in any violation of subdivision (a) or (b) is registered to an offender who is under the age of 21 years, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days for each violation. V.C. 23224(c)

Alcohol, Minors, Limousines

The driver of any limousine for hire operated by a charter-party carrier of passengers under a valid permit issued pursuant to Section 5384 shall do all of the following:

(1) The driver shall ascertain whether any passenger is under the age of 21 years.

(2) If any passenger is under the age of 21 years, the driver shall read to the passenger a statement that the consumption of any alcoholic beverage in the vehicle is unlawful, that no alcoholic beverage may be transported in the passenger compartment of the vehicle, that all alcoholic beverages are required to be carried in the vehicle trunk or other locked compartment, and that, if during the course of the ride any minor is found to be, or to have been, consuming any alcoholic beverage, the contract will be terminated and the customer will be brought back to the point of origin of the ride.

(3) After reading the statement described in paragraph (2) to every passenger under the age of 21 years, the driver shall require every passenger under the age of 21 years to sign the statement and retain the signed statement until every minor passenger is discharged, pursuant to the contract of hire for the limousine and driver.

(4) If any minor passenger, after signing a statement pursuant to paragraph (3) is found to be, or to have been, consuming any alcoholic beverage during the course of any ride subject to the section, the driver shall immediately terminate the contract of hire and shall return the passengers to the point of origin of the ride.

Any failure of a driver to comply with subdivision (a) that results in the conviction of the driver of a violation of Section 23225 of the Vehicle Code, shall be subject to the penalties prescribed in Section 5384.5.

Notwithstanding any other provision of law, this section does not apply to the driver of any bus, taxicab, or van, and it does not prohibit a parent or legal guardian from consuming alcoholic beverages in a limousine for hire while accompanied by his or her minor children. B.&P.C. 5384.1

Liability

A cause of action may be brought by or on behalf of any person who has suffered injury or death against any person licensed, or required to be licensed, pursuant to Section 23300, or any person authorized by the

federal government to sell alcoholic beverages on a military base or other federal enclave, who sells, furnishes, gives or causes to be sold, furnished or given away any alcoholic beverage to any obviously intoxicated minor where the furnishing, sale or giving of that beverage to the minor is the proximate cause of the personal injury or death sustained by that person. B.&P.C. 25602.1

False Identification

Any person under the age of 21 years who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor and shall be punished by a fine of at least two hundred dollars ($200), no part of which shall be suspended. B.&P.C. 25661

Any person who sells, gives, or furnishes to any person under the age of 21 years any false or fraudulent written, printed, or photostatic evidence of the majority and identity of such person or who sells, gives, or furnishes to any person under the age of 21 years evidence of majority and identification of any other person is guilty of a misdemeanor. B.&P.C. 25660.5

Minors on Premises

Any licensee under an on-sale license issued for public premises, as defined in Section 23039, who permits a person under the age of 21 years to enter and remain in the licensed premises without lawful business therein is guilty of a misdemeanor. Any person under the age of 21 years who enters and remains in the licensed public premises without lawful business therein is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100), no part of which shall be suspended. B.&P.C. 25665

ALCOHOL AND DRUG EDUCATION FOR OFFENDERS

Any person found to have committed a violation of Section 23140 shall be required to participate in the alcohol education program. The court shall require the minor to participate in an alcohol education program or a community service program which provides an alcohol education component unless the court finds that the minor, or the minor's parent or parents, is unable to pay required fees for the program, there is no appropriate program located in the county, or other specific circumstances justify failure to impose this requirement. V.C. 23141

If the court finds it just and reasonable, the court may order the parent or parents of a minor who is ordered to participate in an alcohol education program or a community service program which provides an alcohol education component pursuant to this article, to pay the required fees for the program. V.C. 23143

Whenever, in any county specified in subdivision (b), a judge of a juvenile court, a juvenile traffic hearing officer, or referee of a juvenile court finds that a person has committed a first violation of Section 23152 or 23153, the person shall be required to participate in and successfully complete an alcohol or drug education program, or both of those programs, as designated by the court. The expense of the person's attendance in the program shall be paid by the person's parents or guardian so long as the person is under the age of 18 years, and shall be paid by the person thereafter. [V.C. 23154(a)]

MARIJUANA

Possession

Every person who possesses any concentrated cannabis shall be punished by imprisonment in a county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, or shall be punished by imprisonment in the state prison. H.&S.C. 11357(a)

Every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall

be punished by a fine of not more than one hundred dollars ($100). [H.&S.C. 11357(b)]

Every person who possesses more than 28.5 grams of marijuana, other than concentrated cannabis, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment. [H.&S.C. 11357(c)]

Every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars ($500), or by imprisonment in a county jail for a period of not more than 10 days, or both. H.&S.C. 11357(d)

Every person under the age of 18 who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be subject to the following dispositions:

(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars ($500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed. H.&S.C. 11357(e)

Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished by imprisonment in the state prison. H.&S.C. 11359

Transportation

Every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state,

sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished by imprisonment in the state prison for a period of two, three, or four years. H.&S.C. 11360(a)

Every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). [H.&S.C. 11360(b)]

Hiring Minors

Every person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, or offers to sell, any marijuana to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any marijuana to a minor under 14 years of age, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years. H.&S.C. 11361(a)

Every person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any marijuana to a minor 14 years of age or older shall be punished by imprisonment in the state prison for a period of three, four, or five years. H.&S.C. 11361(b)

Peyote

Every person who plants, cultivates, harvests, dries, or processes any plant of the genus Lophophora, also known as peyote, or any part thereof shall be punished by imprisonment in a county jail for a period of not more than one year or the state prison. H.&S.C. 11363

INHALANTS

Sale

Every person who sells, dispenses or distributes toluene, or any substance or material containing toluene, to any person who is less than 18 years of age shall be guilty of a misdemeanor, and upon conviction shall be fined a sum of not less than one thousand dollars ($1,000), nor more

than two thousand five hundred dollars ($2,500), or by imprisonment for not less than six months nor more than one year. P.C. 380(a)

The court shall order the suspension of the business license, for a period of one year, of a person who knowingly violates any of the provisions of this section after having been previously convicted of a violation of this section unless the owner of such business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by employees. The provisions of this subdivision shall become operative on July 1, 1980. P.C. 380(b)

The provisions of this section shall apply to, but are not limited to, the sale or distribution of glue, cement, dope, paint thinners, paint, and any combination of hydrocarbons either alone or in combination with any substance or material including, but not limited to, paint, paint thinners, shellac thinners, and solvents, which when inhaled, ingested or breathed, can cause a person to be under the influence of, or intoxicated from, any such combination of hydrocarbons.

This section shall not prohibit the sale of gasoline or other motor vehicles fuels to persons less than 18 years of age. P.C. 380(c)

This section shall not apply to any glue or cement which has been certified by the State Department of Health Services as containing a substance which make such glue or cement malodorous or causes such glue or cement to induce sneezing, nor shall this section apply where the glue or cement is sold, delivered, or given away simultaneously with or as part of a kit used for the construction or model airplanes, model boats, model automobiles, model trains, or other similar models or used for the assembly or creation of hobby craft items using such components as beads, tiles, tiffany glass, ceramics, clay, or other craft-related components. P.C. 380(d)

Inhaling

Any person who possesses toluene or any substance or material containing toluene, including, but not limited to, glue, cement, dope, paint thinner, paint and any combination of hydrocarbons, either alone or in combination with any substance or material including but not limited to paint, paint thinner, shellac thinner, and solvents, with the intent to breathe, inhale or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses

or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental processes, or who knowingly and with the intent to do so is under the influence of toluene or any material containing toluene, or any combination of hydrocarbons is guilty of a misdemeanor. P.C. 381(a)

Nitrous Oxide

Any person who possesses any substance or material, which the State Department of Health Services has determined by regulations adopted pursuant to the Administrative Procedures Act (chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) has toxic qualities similar to toluene, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, satisfaction, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who is under the influence of such substance or material is guilty of a misdemeanor. P.C. 38b.

NARCOTICS AND DANGEROUS DRUGS

Possession

Every person who possesses any controlled substance, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison. [H.&S.C. 11350(a)]

Every person who possesses for sale or purchases for the purpose of sale, any controlled substance shall be punished by imprisonment in the state prison for two, three, or four years. [H.&S.C. 11351]

Providing

Every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice

in this state, shall be punished by imprisonment in the state prison for three, four, or five years. [H.&S.C. 11352]

Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance, or who offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and who then sells, delivers, furnishes, transports, administers, or gives, or offers, arranges; or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or materials in lieu of any such controlled substance shall be punished by imprisonment in a county jail for not more than one year, or in the state prison.
[H.&S.C. 11355]

Every person under the age of 18 years who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550, who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for sale, or peddle any controlled substance who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison . [H.&S.C. 11354(a)]

Except as authorized by law, any person 18 years of age or older who unlawfully prepares for sale upon school grounds or a public playground, a child day care facility, a church, or a synagogue, or sells or gives away a controlled substance, other than a controlled substance described in Section 11353 or 11380, to a minor upon the grounds of, or within, any school, child day care facility, public playground, church or synagogue providing instruction in preschool, kindergarten, or any of grades 1 to 12, inclusive, or providing child care services, during hours in which those facilities are open for classes, school-related programs, or child care, or at any time when minors are using the facility where the offense occurs, or upon the grounds of a public playground during the hours in which school-related programs for minors are being conducted, or at any time when minors are using the facility where the offense occurs, shall be punished by imprisonment in the state prison for five, seven, or nine years. Application of this section shall be limited to persons at least five years older than the minor to whom he or she prepares for sale, sells, or gives away a controlled substance.

Minors

Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this chapter or Section 11550 with respect to a controlled substance who hires, employs, or uses a minor to unlawfully transport, carry, sell, give away, prepare for use, or peddle any such controlled substance, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of three, six, or nine years. [H.&S.C. 11353]

Driving

It is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle. V.C. 23152(a)

It is unlawful for any person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a methadone maintenance treatment program. [V.C. 23152 (c)]

DRUG PARAPHERNALIA

It is unlawful to possess an opium pipe or any device, contrivance, instrument or paraphernalia used for unlawfully injecting or smoking a controlled substance. [H.&S.C. 11364]

It is a misdemeanor for any person to deliver, furnish, or transfer, or to possess with intent to deliver, furnish, or transfer, or to manufacture with intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this division. [H.&S.C. 11364.7(a)]

(b) * * * Except as authorized by law, any person who manufactures with intent to deliver, furnish, or transfer drug paraphenalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body cocaine, cocaine base, heroin, phencyclidine, or methamphetamine in violation of this division shall be punished by imprisonment in a county jail for not more than one year, or in the state prison. H.&S.C. 1367.7(b)

(c) * * * Except as authorized by law, any person, 18 years of age or over, who violates subdivision (a) by delivering, furnishing, or transferring drug paraphenalia to a person under 18 years of age who is at least three years his or her junior, or who, upon the grounds of a public or private hypodermic needle, as defined in paragraph (7) of subdivision (a) of Section 11014.5, with the intent to deliver, furnish, or transfer the hypodermic needle, knowing, or under circumstances where one reasonably should know, that it will be used by a person under 18 years of age to inject into the human body a controlled substance, is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both * * * that imprisonment and fine. H.&S.C. 11364.7(c)

Unless authorized by law, no person under the age of 18 years shall enter, be in, remain in or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered in any manner, sold, furnished, transferred or given away unless accompanied by one of his or her parents or by his or her legal guardian. H.&S.C. 11364.5(c)

PARENTAL RESPONSIBILITIES

Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the

person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health is endangered, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for 2, 4, or 6 years. P.C. 273a. (1)

Every person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Sections 300, 601, or 602 of the Welfare and Institutions Code, or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause any such person to become or to remain a person within the provisions of Sections 300, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in a county jail for not more than one year, or by both such fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years. For purpose of this section, a parent or legal guardian to any person under the age of 18 years shall have the duty to exercise reasonable care, supervision, protection, and control over their minor. P.C. 272

If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, or medical attendance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment. If a court of competent jurisdiction has made a final adjudication in either a civil or a criminal action that a person is the parent of a minor child and the person has notice of such adjudication and he or she then willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance or other remedial care for his or her child, this conduct is punishable by imprisonment in a county jail not exceeding one year or in a state prison for a determinate term of one year and one day, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. This statute shall not be construed so as to relieve such parent from the criminal liability defined herein for such omission merely because the other parent

of such child is legally entitled to the custody of such child nor because the other parent of such child or any other person or organization voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care for such child or undertakes to do so.... The provisions of this section are applicable whether the parents of such child are or were ever married or divorced, and regardless of any decree made in any divorce action relative to alimony or to the support of the child. [P.C. 270]

GROUNDS FOR SUSPENSION AND EXPULSION FROM SCHOOL

A pupil shall not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has:

Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance, an alcoholic beverage, or an intoxicant of any kind. E.C. 48900(c)

Unlawfully offered, arranged, or negotiated to sell any controlled substance, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant. E.C. 48900(d)

Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products. E.C. 48900(h)

Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia. [E.C. 48900(j)]

ISSUES OF CONFIDENTIALITY AND REPORTING

Counseling: E.C. 49602

Any information of a personal nature disclosed by a pupil 12 years of age or older in the process of receiving counseling from a school counselor as specified in Section 49600 is confidential. Any information of a personal nature disclosed to a school counselor by a parent or guardian of a pupil who is 12 years of age or older and who is in the process of receiving counseling from a school counselor as specified in Section 49600 is confidential. The information shall not become part of the pupil record, as defined in subdivision (b) of Section 49061, without the written consent of the person who disclosed the confidential information. The information shall not be revealed, released, discussed, or referred to, except as follows:

Discussion with psychotherapist as defined by Section 1010 of the Evidence Code, other health care providers, or the school nurse, for the sole purpose of referring the pupil for treatment. E.C. 49602(a)

Reporting of child abuse or neglect as required by Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code. E.C. 49602(b)

Reporting information to the principal or parents of the pupil when a school counselor has reasonable cause to believe that disclosure is necessary to avert a clear and present danger to the health, safety, or welfare of the pupil or the following other persons living in the school community: administrators, teachers, school staff, parents, pupils, and other school community members. E.C. 49602(c)

Reporting information to the principal, other persons inside the school, as necessary, the parents of the pupil, and other persons outside the school when the pupil indicates that a crime, involving the likelihood of personal injury or significant or substantial property losses, will be or has been committed. E.C. 49602(d)

Reporting information to one or more persons specified in a written waiver after this written waiver of confidence is read and signed by the pupil and preserved in the pupil's file. E.C. 49602(e)

Notwithstanding the provisions of the section, a school counselor shall not disclose information deemed to be confidential pursuant to this section to the parents of the pupil when the school counselor has reasonable cause to believe that the disclosure would result in a clear and present danger to the health, safety, or welfare of the pupil.

Notwithstanding the provisions of the section, a school counselor shall disclose information deemed to be confidential pursuant to this section to law enforcement agencies when ordered to do so by order of a court of law, to aid in the investigation of a crime, or when ordered to testify in any administrative or judicial proceeding.

Nothing in this section shall be deemed to limit access to pupil records as provided in Section 49076.

Nothing in this section shall be deemed to limit the counselor from conferring with other school staff, as appropriate, regarding modification of the pupil's academic program.

It is the intent of the Legislature that counselors use the privilege of confidentiality under this section to assist the pupil whenever possible to communicate more effectively with parents, school staff, and others.

No person required by this section to keep information discussed during counseling confidential shall incur any civil or criminal liability as a result of keeping that information confidential.

As used in this section, "information of a personal nature" does not include routine objective information related to academic and career counseling.

Alcohol and Other Drugs

Any principal or person designated by the principal who, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a student whom he or she knows, or reasonably suspects as evidenced by the student's apparent intoxication, has consumed an alcoholic beverage or abused a controlled substance, may report the known or suspected instance of alcohol or controlled substance abuse to the parent or parents, or other person having legal custody, of the student. E.C. 44049(a)

No principal or his or her designee who reports a known or suspected instance of alcohol or controlled substance abuse by a student to the parent or parents, or other person having legal custody, of the student shall be civilly or criminally liable, for any report or as a result of any report, unless it can be proven that a false report was made and the principal or his or her designee knew that the report was false or was made with reckless disregard for the truth or falsity of the report. Any principal or his or her designee who makes a report known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. E.C. 44049(b)

Consent for Counseling or Medical Care for Drug or Alcohol Treatment Related to Drugs: [F.C. 6929]

A minor twelve years of age or older may give consent to the furnishing of medical care and counseling relating to the diagnosis and treatment of a drug or alcohol-related problem. Such consent shall not be subject to denial because of minority.

The consent of the parents or legal guardian of a minor shall not be necessary to authorize hospital care, medical care, or counseling related to drug or alcohol-related problems and, except as otherwise provided, the parent or legal guardian of the minor shall not be liable for payment for any such care rendered to a minor.

The treatment plan of a minor authorized by this section shall include the involvement of the minor's parents or legal guardian, if appropriate, as determined by the professional person or treatment facility treating the minor. The professional person rendering medical treatment or counseling to a minor shall state in the minor's treatment record whether and when he or she attempted to contact the parents or legal guardian of the minor, and whether such attempt to contact the parents or legal guardian of the minor was successful or unsuccessful; or the reason why, in his or her opinion, it would not be appropriate to contact the parents or legal guardian of the minor. If the minor's parents or legal guardian participates in a counseling program, such parents or legal guardian shall be liable for the cost of such services provided to the minor and the parents or legal guardian.

ANABOLIC STEROIDS

Providing to Athletes

Any coach, trainer, or other person acting in an official or nonofficial capacity as an adult supervisor for an athletic team consisting of minors under the age of 18 who sells, gives, or otherwise furnishes to any member of that team a diuretic, diet pill, or laxative with the intent that it be consumed, injected, or administered for any nonmedical purpose such as loss of weight or altering the body in any way related to participation on the team or league, is guilty of a misdemeanor. [P.C. 310.2(a)]

Possession

Every person who possesses any controlled substance which is not a narcotic drug or prescribed by a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison. Any person who violates this law by unlawfully possessing a controlled substance and who has not previously been convicted of such a violation involving a controlled substance is guilty of a misdemeanor. H.&S.C. [11377(a)(b)]

Every person who possesses for sale any controlled substance which is not a narcotic drug, shall be punished by imprisonment in the state prison. [H.&S.C. 11378]

Every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is not a narcotic drug or prescribed by a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of two, three, or four years. [H.&S.C. 11379]

Any person who distributes or possesses with the intent to distribute any anabolic steroid for any use in humans other than the treatment of disease pursuant to the order of a physician shall be imprisoned for not more than three years or fined under title 18, U.S.C. or both. Any person who distributes or possesses with the intent to distribute to an individual under 18 years of age, any anabolic steroid for any use in humans other than the treatment of disease pursuant to the order of a physician shall

be imprisoned for not more than six years or fined under title 18, U.S.C., or both. 21 U.S.C. 333 section 2403

MISCELLANEOUS

Presence Where Drugs Are Being Used

It is unlawful to visit or to be in any room or place where any controlled substances, or which narcotic drugs, are being unlawfully smoked or used with knowledge that such activity is occurring. [H.&S.C. 11365]

Disorderly Conduct

Every person who commits the following act is guilty of disorderly conduct, a misdemeanor:

> Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way. P.C. 647(f)

Imitations

Any person who knowingly manufactures, distributes, or possesses with intent to distribute, an imitation controlled substance is guilty of a misdemeanor and shall, if convicted, be subject to imprisonment for not more than six months in a county jail or a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine. H.&S.C. 11680

Possession Of Drugs Without A Prescription

No person shall have in possession any controlled substance, except that furnished to such person upon the prescription of a physician, dentist, podiatrist, or veterinarian. B.&P.C. [4230]

GLOSSARY

Anabolic steriods: *Any material, compound, mixture, or preparation containing an anabolic steroid, including, but not limited to Methandrostenolone, Stanoszolol, Ethylestrenol, Nandrolone phenpropionate, Nandrolone deconoate, Testosterone propionate, or Chorionic gonadotropin.*

Avoirdupois: *A system of weights in Britain and the United States based on sixteen ounces per pound.*

Betel: *The seed of a tall palm* (Areca catechu) *chewed with dried betel leaves and lime as a stimulant. Sometimes referred to as betel nuts.*

Butyl nitrite: *Includes n-butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing these chemicals.*

Cannabis: (Cannabis sativa) *The marijuana, or hemp plant, the active ingredient of which is delta-9-tetrahydrocannabinof.*

Controlled Substance: *A term coined for the 1970 federal law that revised previous laws regulating narcotics and dangerous drugs. Heroine and cocaine are examples of controlled substances.*

Felony: *A crime which is punishable by death or imprisonment in a state prison.*

Infraction: *Something that is not punishable by imprisonment.*

Misdemeanor: *Any crime which is punishable by a fine or imprisonment in a county jail.*

Opium: *A habit-forming narcotic prepared from the bitter thickened juice of an opium poppy.*

Peyote: (Genus Lophophorra) *A hallucinogenic drug obtained from a spineless cactus.*

Toluene: *The active ingredient found in various glue products.*

SUGGESTED READING

Erikson, J.T. and Associates. (1993). *California Laws Relating to Minors.* Harcourt, Brace, Jovanovich.

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State of California Department of Justice. (1990). *Law in the School,* fifth edition. Sacramento: California Department of Justice.

State of California. (1994). *California Juvenile Laws and Court Rules.* St. Paul, MN: West.